

ESTTA Tracking number: **ESTTA417569**Filing date: **07/01/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Itera International Energy Corporation
Granted to Date of previous extension	07/13/2011
Address	9995 Gate Parkway, Suite 400 Jacksonville, FL 32246 UNITED STATES

Attorney information	Mary Baril McGuireWoods LLP 901 E Cary St. Richmond, VA 23219 UNITED STATES mbaril@mcguirewoods.com Phone:8047751169
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Applicant Information

Application No	85036807	Publication date	03/15/2011
Opposition Filing Date	07/01/2011	Opposition Period Ends	07/13/2011
Applicant	Interra Energy, LLC 10385 Londonderry Avenue San Diego, CA 92126 UNITED STATES		

Goods/Services Affected by Opposition


Class 035. All goods and services in the class are opposed, namely: Operating a solid waste biomass-to-energy system, comprised of a reactor machine that produces carbon-based soil amendment and electricity, for others; Retail electricity provider services, namely, providing a service that allows customers to purchase energy, namely, electricity
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2455174	Application Date	04/12/2000
Registration Date	05/29/2001	Foreign Priority Date	NONE
Word Mark	ITERA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1994/00/00 First Use In Commerce: 1994/00/00 exchange services, namely, bartering goods for others Class 036. First use: First Use: 1994/00/00 First Use In Commerce: 1994/00/00 commodity brokerage and commodity trading for others Class 039. First use: First Use: 1994/00/00 First Use In Commerce: 1994/00/00 distribution of natural gas to others; public utility services, namely supplying natural gas to others; natural gas supply services to others

U.S. Registration No.	2388971	Application Date	04/04/1997
Registration Date	09/26/2000	Foreign Priority Date	NONE
Word Mark	ITERA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1994/00/00 First Use In Commerce: 1994/00/00 exchange services, namely, bartering goods for others Class 036. First use: First Use: 1994/00/00 First Use In Commerce: 1994/00/00 commodity brokerage and commodity trading for others Class 039. First use: First Use: 1994/00/00 First Use In Commerce: 1994/00/00 distribution of natural gas to others; public utility services, namely, supplying natural gas to others, natural gas supply services to others		

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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Mary Baril/
Name	Mary Baril
Date	07/01/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of: Interra Energy, LLC

Serial No.: 85036807

Filed: May 12, 2010

Mark: INTERRA ENERGY

Published: March 15, 2011

Itera International Energy Corporation)
Opposer,)

v.)

Interra Energy, LLC)
Applicant.)

Opposition No. _____

NOTICE OF OPPOSITION

Opposer, Itera International Energy Corporation ("Opposer"), a Florida corporation, with its principal place of business at 10151 Deerwood Park Boulevard Building 100, Suite 410, Jacksonville, FL 32256, believes that it would be damaged by registration of the mark shown in Serial No. 85036807 and hereby opposes the same under Section 13 of the Trademark Act of July 5, 1946, 15 U.S.C. § 1063.

As grounds of opposition, Opposer alleges that:

1. Applicant seeks to register the mark INTERRA ENERGY bearing Application Serial No. 85036807 as a trademark for Operating a solid waste biomass-to-energy system, comprised of a reactor machine that produces carbon-based soil amendment and electricity, for others; Retail electricity provider services, namely, providing a service that allows customers to purchase energy, namely, electricity in International Class 35 as evidenced by publication of the mark in the Official Gazette of March 15, 2011.

2. Opposer, under its mark ITERA and its other marks has become a significant and well known for a variety of services in the energy industry.

3. Opposer is the owner of all right, title and interest in and to the mark ITERA and is the owner of Registration Nos. 2388971 and 2455174 as used to identify Opposer's services in the energy industry, including those services listed in the above referenced registrations.

4. Opposer duly adopted the trade mark ITERA for use in connection with its said services and offers these services in interstate commerce. Since adoption of said trade mark, Opposer has continuously used said trade mark in connection with its services.

5. The registered mark of Opposer is valid and subsisting and is prima facie evidence of Opposer's exclusive right to use the mark in commerce in connection with the services specified in the registration. Both registered marks are incontestable.

6. Opposer has made a substantial investment in advertising and promoting its services as described above under the registered marks on a nationwide basis, and has developed substantial goodwill which is symbolized by Opposer's ITERA mark.

7. By virtue of its substantial investment in advertising and promoting its services under the registered marks and by virtue of the excellence of its services, Opposer has gained for the marks a valuable reputation.

8. Opposer's marks and the mark identified by Serial No. 85036807 are virtually phonetically and visually identical.

9. The mark used by Applicant so resembles Opposer's above identified registered marks as to be likely, when applied to the services of Applicant, to cause confusion or mistake or to deceive purchasers, resulting in damage to Opposer and its reputation.

10. The services to which Applicant applies the INTERRA ENERGY mark and the services for which Opposer's ITERA mark is registered are purchased by and targeted at a similar category of consumers.

11. Because of the similarity between the mark used by Applicant and Opposer's marks and because the services of both parties are similar and likely to be encountered by the same customer group, Opposer's customers and the general public are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's services and misled into believing that those services are provided by, or are in some other way directly or indirectly associated with Opposer, to the damage of Opposer and its reputation.

12. Any defects, objections or faults found with Applicant's services bearing the INTERRA mark because of false association with Opposer, would inflict serious injury upon the reputation of Opposer.

13. Opposer and its goodwill will be damaged by the registration by Applicant of the INTERRA mark in that the mark is substantially similar to, and a colorable imitation of Opposer's pleaded marks and is used in connection with services similar to Opposer's services.

WHEREFORE, Opposer, ITERA ENERGY INTERNATIONAL CORPORATION prays that the Application with Serial No. 85036807 be rejected, that no registrations be issued thereon to Applicant and that this Opposition be sustained in favor of Opposer.

The requisite filing fee has been paid with the electronic filing of this Notice of Opposition.

Respectfully Submitted,

ITERA ENERGY INTERNATIONAL CORPORATION

By: 
Mary Dalton Baril

Mary Dalton Baril
McGUIRE, WOODS, BATTLE & BOOTHE
One James Center
Richmond, Virginia 23219

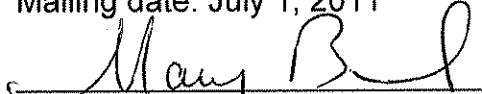
Dated: July 1, 2011

Certificate of Service

I hereby certify that a copy of this Notice of Opposition was served by first class mail on Applicant at:

INTERRA ENERGY, LLC
10385 LONDONDERRY AVE
SAN DIEGO, CA 92126-3316

Mailing date: July 1, 2011


Mary Dalton Bafil